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PATENT
Customer No. 22,852
Attorney Docket No. 3438-64-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
March H. Schneider) Group Art Unit: 1773
)
Application No.: 10/700,623) Examiner: Kevin R. Kruer
)
Filed: November 5, 2003)
)
For: Wood Impregnation) Confirmation No.: 5372

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(a)

Applicant hereby petitions the Honorable Commissioner of Patents and Trademarks to revive the above application and withdraw the holding of abandonment under the provisions of 35 U.S.C. §133 and 37 C.F.R. 1.137(a).

This application was filed on November 5, 2003 as a divisional of application Serial No. 09/761,699, filed January 18, 2001. Abandonment of the application subsequently resulted from applicant's failure to file a response by January 28, 2005 to the Office communication of December 28, 2004. Applicant's failure to do so, however, was unavoidable because the Office communication was never received by applicant or his attorney. Applicant therefore requests revival of the application and withdrawal of the holding of abandonment in view of Delgar, Inc. v. Schuyler, 172 U.S.P.Q. 513 (D.C.D.C. 1971) in which such a remedy was granted under analogous facts.

On or about July 8, 2005, the undersigned received a telephone call from Examiner Kruer asking if it was applicant's intention not to reply to the Office communication of December 28, 2004. Upon checking the docket records and the file, the undersigned informed the Examiner that the firm had no record of receiving the communication and requested a copy of the communication by facsimile. A copy of the communication is attached as Exhibit A.

Subsequent to this conversation with the Examiner, a Notice of Abandonment dated July 12, 2005 was received. The Notice indicated the application was abandoned for failure to timely file a reply to the Office letter mailed on 28 December 2004.

Enclosed as Exhibit B is a copy of the Patent Prosecution History of this case as set forth in the docket records of the undersigned firm as of the date of the issuance of the Notice of Abandonment. This history shows the attorney for the application is "ASG," which are the undersigned's initials and the firm's internal reference for the case, which is 03438-0064-01. As can be seen, there is no entry as of July 12, 2005 showing receipt of the Office communication of December 28, 2004 or of the indicated due date for reply which would have been January 28, 2005.

In addition to monthly reminders, reminders are also distributed in the undersigned's firm on a daily basis. Attached as Exhibit C is a copy of the firm's daily docket reminders for all attorneys for January 28, 2005, the original due date for filing a response to the communication. As can be seen, here also there is no entry for reference number 03438-0064-01 for any reply due on January 28, 2005.

Finally, enclosed as Exhibit D is a copy of a daily log kept by the undersigned's firm for the days of December 28, 2004 to January 11, 2005; the next two weeks

following the apparent mailing of the Office communication on December 28, 2004. As can be seen from a thorough review of this log, there is no record that the Office communication was ever received in the offices of the undersigned's firm. Because the Office communication was never received, no reply was ever filed and the case became abandoned.

To this day, the original copy of the Office communication of December 28, 2004 has not been received despite the fact there does not appear to be any problem with the printed address label. Though the undersigned's firm has subsequently moved to new offices, this was the correct address of the firm at the time in question. Moreover, all mail with that address is automatically being forwarded to the firm's new address.

It is therefore believed that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable.

Enclosed as required by Rule 1.137(a)(1) is a Reply to the Office communication.

Accordingly, under the above noted Rule, applicant requests reinstatement of this application and its return to the Examiner for further prosecution.

Enclosed is a check for \$250.00 (small entity) as required by 37 C.F.R. 1.137(a)(2).

If for any reason this petition is not acceptable under 37 C.F.R. 1.137(a), please accept it as a petition under 37 C.F.R. 1.137(b) on the grounds that the abandonment of

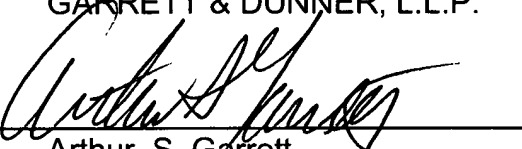
the application was unintentional and charge the additional fee required under
37 C.F.R. 1.137(b)(2) to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

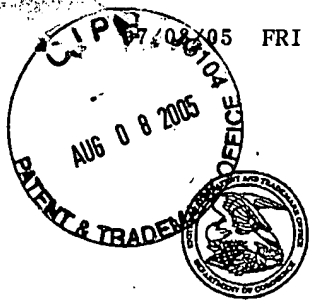
Dated: August 8, 2005

By:

A handwritten signature in black ink, appearing to read "Arthur S. Garrett", is written over a horizontal line.

Arthur S. Garrett
Reg. No. 20,338

946792_1.DOC



7/08/05 FRI 11:51 FAX 7033055408

GP 1700 FAX MACHINE

002

EXHIBIT A

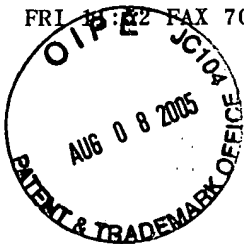
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,623	11/05/2003	Marc H. Schneider	3438-64-1	5372
22852	7590	12/28/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			KRUEER, KEVIN R	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

12232004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on October 12, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the reply did not address paragraph #3 of the Non-Final Office Action mailed 5/12/2004. Specifically, Applicant did not respond to the objection to the specification as required by 37 CFR 1.111 with regards to disclosure consistency (see 37 CFR 1.121(e)). Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Krueer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday from 8:00a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached on (571) 272-1535.

The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

K-RK
Kevin R. Krueer
Patent Examiner-Art Unit 1773



Patent Prosecution History

CaseNumber	Country	SubCase	Status
03438-0064	000	01	REJECTED

Attorneys: ASG

Title: Wood impregnation

Application Status Check 11/5/2003

Remarks:

Action Due Date	Due Date	Indicator	Date Taken
Application Status Check	5/5/2005	Due Date	1/1/2003

APPLN STATUS 11/5/2003

Remarks: Appln filed w/IDS 11/05/03

Action Due Date	Due Date	Indicator	Date Taken
Appln status	11/5/2004	Reminder	5/14/2004
Benefit of priority	3/5/2004	Final	1/13/2004

FILING RCPT RCVD 2/6/2004

Remarks: Correction or Revision of claims due 07/13/04

Action Due Date	Due Date	Indicator	Date Taken
Callup	4/13/2004	Reminder	5/12/2004
Callup.	6/13/2004	Reminder	5/12/2004
Corr/revision due	7/13/2004	Final	5/12/2004
Projected publication dt.	5/13/2004	Final	5/12/2004
Send f. receipt to client	2/20/2004	Reminder	5/12/2004

Information Disclosure Stmtnt 11/5/2003

Remarks:

Action Due Date	Due Date	Indicator	Date Taken
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Tuesday, July 12, 2005

Patent Prosecution History

CaseNumber	Country	SubCase
Information Disclosure Stmt		2/5/2004 Due Date 1/1/2003

NOT OF PUBLICATION OF APPLIC 5/13/2004

Remarks: Corr or revision of claims for Published Appln due 07/13/04 (No exts)

Action Due Date	Due Date	Indicator	Date Taken
Application publishes	5/13/2004 Due Date		6/24/2004
Callup	6/13/2004 Reminder		6/24/2004
Callup	6/28/2004 Reminder		6/24/2004
Corr/revision of claims due	7/13/2004 Final		6/24/2004
NOT OF PUBLICAT Follow Up Date	12/24/2004 FollowUp		6/24/2004
Send not/publ. to client	6/15/2004 Reminder		6/24/2004
US-3MON. ACTION	5/12/2004		

Remarks: Reply w/Ext filed 10/12/04

Action Due Date	Due Date	Indicator	Date Taken
Resp - 1st ext	9/12/2004 Due Date		10/12/2004
Resp - 2nd ext	10/12/2004 Due Date		10/12/2004
Response - END	11/12/2004 Final		10/12/2004
Response due	8/12/2004 Due Date		10/12/2004
US-3MON. ACTION Follow Up Date	8/12/2005 FollowUp		

US-APPLN FILED 11/5/2003

Remarks: Appln filed w/IDS 11/05/03

Action Due Date	Due Date	Indicator	Date Taken
Filing receipt rev	2/6/2004		2/6/2004

Patent Prosecution History

CaseNumber	Country	SubCase	
Filing receipt status		4/5/2004 Reminder	2/6/2004
Prel Amend f.		11/5/2003	11/5/2003
US-APPLN FILED Follow Up Date		8/6/2004 FollowUp	2/6/2004
US-DIVISIONAL		9/5/2003	

Remarks: Divisional due per conflict entry

Action Due Date	Due Date	Indicator	Date Taken
Div callup	10/5/2003	Reminder	11/5/2003
Div callup	11/5/2003	Reminder	11/5/2003
Div callup	11/19/2003	Reminder	11/5/2003
Div callup	11/26/2003	Reminder	11/5/2003
Div callup	12/19/2003	Final	11/5/2003
Divisional due	12/5/2003	Final	11/5/2003
US-DIVISIONAL Follow Up Date	5/5/2004	FollowUp	11/5/2003

Wednesday, January 05, 2005

Due Date List By Date

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05-Jan-2005 To 31-Jan-2005

Due Date	Action Due / Client	Case Number/SubCase/Country	Attorneys	Action Remarks
28-Jan-2005	Response due <i>Number:</i> 01302446.8 GEORGIA PACIFIC CORPORATION <i>Title:</i> CREPING BLADE, CREPED PAPER, AND METHOD OF MANUFACTURING PAPER <i>Remarks:</i> Response to EPO comm due 1/28/05 #	02734-0471 / 00 / 155	BGB AMG AJV EMF European Patent Convention	Final
28-Jan-2005	12mo inquiry <i>Number:</i> 2,339,184 LANTECH.COM LLC <i>Mark:</i> Q-PAL <i>Remarks:</i> Tm resp to Post Reg O.A. f. 01/28/04 Status Inquiry due 01/28/05 Make Status Inquiry at 6 mos.	02906-0296 / 00 / 000	JCP BBH ALP United States of America	Final
28-Jan-2005	12mo inquiry <i>Number:</i> 2,643,649 LANTECH.COM LLC <i>Mark:</i> GO CONFIGURE <i>Remarks:</i> Resp to Post Reg f. 01/28/04 Status Inquiry due 01/28/05 Make Status Inquiry at 6 mos.	02906-0309 / 01 / 000	JCP BBH ALP United States of America	Final
28-Jan-2005	Forn filing rem <i>Number:</i> 76/613,213 NGB Corporation <i>Mark:</i> DISCT@2 <i>Remarks:</i> Convention is 03/28/05 Send reminder ltr to client & copy to Dktg	03328-0544 / 00 / 000	MSS EAR TVB United States of America	Final
28-Jan-2005	Issue Fee Due <i>Number:</i> 09/604,770 NORTEL NETWORKS CORP. <i>Title:</i> METHODS AND SYSTEMS FOR OPTIMIZING DATA TRANSMISSION IN NETWORKS <i>Remarks:</i> Issue Fee (Req/Reconsideration of adjustment, if necessary) due 01/28/04 (Patent term adjustment by 798 days)	03384-0385 / 00 / 000	ERY FLB PWL United States of America	Final
28-Jan-2005	Decl/schg-1 ext <i>Number:</i> 10/662,425 INSTITUT PASTEUR <i>Title:</i> CLONING, SEQUENCING, AND EXPRESSION OF A GENE ENCODING AND EUKARYOTIC AMINO ACID RACEMASE, AND SIAGNOSTIC, THERAPEUTIC, AND VACCINATION APPLICATIONS OF PARASITE AND VIRAL MITOGENS <i>Remarks:</i> 12/17/04 fax fr client encl Suppl Dec and Poa Suppl decl/poa rcvd 12/20/04	03495-0200 / 01 / 000	KJM DVK United States of America	Due Date
28-Jan-2005	Annuity due <i>Number:</i> 2154071 AVENTIS PHARMA S.A. <i>Title:</i> PROCESS FOR THE PREPARATION OF TAXANE DERIVATIVES AND BETA-LACTAM INTERMEDIATES THEREFOR	03806-0218 / 00 / 131	TLI CPE JZS ZZZ Canada	Final

PTO Mail Search

Criteria 12/28/2004 To 1/11/2005

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FHFGD Ref	Date In	Doc. Type	Patent No	Opp./Interference	Serial No	Client Ref	Resp. Time	User
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Total Records: 962